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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/878,642 | 06/11/2001 | John Albert Hockman | 01-016 | 3119 |

7590 05/07/2003
Marvin J. Powell
1 Highland Avenue
Bethlehem, PA 18017

EXAMINER

COLAIANNI, MICHAEL

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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1731

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DATE MAILED: 05/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/878,642

Applicant(s)

HOCKMAN, JOHN ALBERT

Examiner

Michael P Colaianne

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 May 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☒ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See the attached "Response to Arguments".

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1 and 4-9.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

MICHAEL COLAIANNI
PRIMARY EXAMINER

Michael P Colaianne
Primary Examiner
Art Unit: 1731

Response to Arguments

The amendment after final rejection filed on May 1, 2003 has not been entered.

Applicant attempts in the amendment filed May 1, 2003 (facsimile sent December 9, 2002), to amend claims 5 and 6 to correct antecedent basis problems. However, in doing so, the applicant creates more confusion. By amending claim 5 and 6 to state "a second glass batch" and "a comparative composition" greater confusion is created because now it is not clear what is the composition of the "second glass batch" and the "comparative composition." It is impossible to compare the "comparative composition" and the composition of claim 1 because there is no way of determining what the compositions of claim 1 and claim 5 are supposed to be. Applicant's use of vague language such as "other glass components" and "comparative composition" make the comparison impossible.

Moreover, despite applicant's argument that "other glass components" are readily understood by one of ordinary skill in the art, the Examiner continues his rejection of the claims for indefiniteness. It is not possible to determine what is the glass composition of claim 1. Because of this vague language, it is not possible to determine the what the composition is or how it compares to the "second glass batch of a comparative composition" in claim 5. The rejection stands.

Applicant also contends that §112, 1st paragraph rejection is not warranted because applicant states in their written description that the value of "z" is meant to "balance the oxidation state of calcium magnesium silicate" which, according to

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applicant, means that "z" "has to be associated with the oxygen. The Examiner respectfully disagrees.

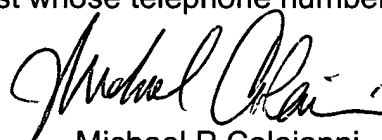
It is known in the art that "oxidation" has a much broader meaning than simply being limited to oxygen. Rather, "oxidation" refers to the transfer of electrons during a reaction. Thus, "z" could, equally, be put on the calcium or magnesium atom in the formula and still be deemed to "balance the oxidation state" because the calcium and magnesium receive (i.e. electrons are transferred to them) during the reaction. Thus, applicant's arguments are not persuasive.

The rejection stands as stated in the Final Rejection mailed October 9, 2002.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P Colaianni whose telephone number is 703-305-5493. The examiner can normally be reached on Monday to Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin, can be reached on (703) 308-1164. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7115.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.



Michael P Colaianni
Primary Examiner
Art Unit 1731

**MICHAEL COLAIANNI
PRIMARY EXAMINER**